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Cr1.A.No. 1247 OF 1997  
-ITEM NO. 106COURT NO.09 SECTION II

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO. 1247/1997

State of Rajasthan  
...  
APPELLANT (S)

VERSUS

Shiv Nath Ram  
...  
RESPONDENT (S)

Date :18  
03/2004  
This Appeal was called on for hearing today.

CORAM :  
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN  
HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Appellant (s)Ms. Sandhya Goswami,Adv.

For Respondent (s)Mr. Sushil Kr. Jain,Adv.

UPON hearing counsel, the Court made the following  
O R D E R

Heard the learned counsel for the respondent from  
12.30p.m. to 12.55 p.m. and two minutes thereafter the learned  
counsel for the State.

The appeal is dismissed.

( Y.P.Dhamija )  
AR-cum-PS

( Veera Verma )  
Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1247 OF 1997

State of Rajasthan

...

APPELLANT (S)

VERSUS

Shiv Nath Ram

...

RESPONDENT (S)

O R D E R

This is an appeal preferred by the State of Rajasthan against the acquittal of the respondent.

The respondent was charged for the offence under sections 17 and 18 of NDPS Act. He was found guilty by the Sessions Court. The case against the respondent was that he was found in possession of 360 grams of opium in a polythene pouch kept in the dicky of motorcycle and 10 Kg 380 gms. and 4.1/2 and 950 grms. of milky substance of opium which was recovered from the house Khasra No.54 of the respondent. The respondent when questioned under section 313, Cr.P.C. stated that the motorcycle bearing No. RJ/7089 did not belong to him and he was not the owner of Dhani from where 360 gm. opium was recovered and he was staying in a House in Khasra No.44/2.

The High Court after appreciating the evidence on record held that the prosecution could not satisfactorily prove that the respondent was not the owner of the house from where the opium was recovered, and also the motorcycle from which the milky substance of opium was recovered.

The Dhani from where the opium was recovered was is Khasra No.54 and it belonged to one Phusa Ram Bhoora Ram and the motorcycle was not registered in the name of the respondent. This being an appeal against acquittal, this Court would be slow in reversing the acquittal unless there is perverse appreciation of evidence causing thereby a serious miscarriage of justice. We do not think that the High Court committed error in appreciating the evidence on record. We find no merit in the appeal and it is accordingly dismissed.

.....J.

( K.G. BALAKRISHNAN )

.....J.

( B.N. SRIKRISHNA )

New Delhi,  
March 18, 2004.